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FROM: Kenneth S. Fellman, Esq.RE: FCC Local and State Government Advisory Committee

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**FEDERAL COMMUNICATIONS COMMISSION
LOCAL AND STATE GOVERNMENT ADVISORY COMMITTEE**

Reply to: Kenneth S. Fellman, Esq.
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November 2, 1998

**VIA FACSIMILE (202-418-2801)
and U.S. MAIL**

Honorable William E. Kennard, Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

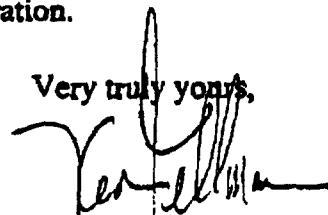
*Re: Local and State Government Advisory Committee / Advisory
Recommendation No. 12 / 91-301 and 91-171*

Dear Chairman Kennard:

After careful consideration at its July and September meetings, the Local and State Government Committee has adopted Advisory Recommendation No. 12 concerning Emergency Alert Systems. The LSGAC appreciates the Commission's careful consideration of this recommendation. We would be happy to discuss it with you, any of the other Commissioners, and any members of your respective staffs if you believe it would be helpful.

Again, thank you for your consideration.

Very truly yours,



Kenneth S. Fellman
Chairman, LSGAC

Ken Fellman, Chair
City Council Member at Large
Arvada, Colorado

Marilyn Praisner, Vice-Chair
Montgomery County Council
Rockville, Maryland

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Lansing, Michigan

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Honorable William E. Kennard, Chairman
November 2, 1998
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KSF/eaj

Enclosure

cc: Commissioner Susan Ness (via facsimile)
Commissioner Harold Furchtgott-Roth (via facsimile)
Commissioner Gloria Tristani (via facsimile)
Commissioner Michael Powell (via facsimile)
LSGAC Members and Staff (via facsimile)
Roz Allen (via facsimile)
Susan Fox, Esq. (via facsimile)
Henry L. Baumann, NAB (via facsimile)

FCC Local and State Government Advisory Committee**Advisory Recommendation Number 12****Notice of Proposed Rulemaking and Second Further Notice of Proposed Rulemaking****Docket No.: 91-301 and 91-171****Emergency Alert Systems****Re: Cases FO 91-171; FO 91-301-Emergency Alert Systems**

At its meetings on July 24 and September 25, 1998, The Local and State Government Advisory Council ("LSGAC") considered the issues raised in the Notice of Proposed Rulemaking and Second Notice of Proposed Rulemaking FO Docket Numbers 91-171 and 91-301. The proposed amendments seek to amend the Emergency Alert System regulations to allow broadcasters to carry emergency alert warnings by state and local governments on a voluntary, rather than mandatory basis. For the following reasons, the LSGAC suggests that the Federal Communications Commission abandon the approach suggested in the proposed rulemaking.

1. In crisis situations, it is critical for the government to be able to speak with one voice. The directions and message from the government must be clear and unequivocal. The government should have the prerogative of dispensing the information in the way it believes most appropriate for the management of emergency situations. By allowing the proposed amendment, the broadcasters are, in effect, asking to be able to interpret and analyze the government's message to the public without the public hearing the actual message. Such a system can only result in confusion. The message cannot be diluted in times of crisis. It is the duty and obligation of the government to minimize confusion in emergency situations in order for the public to be properly protected from natural or man made threats.

2. In reviewing the National Association of Broadcaster's position, there is the assumption that creating its own broadcast about an emergency situation without broadcasting the government's alert, would result in "better" news. The choice of pictures and background is unimportant to the purpose of an emergency broadcast. The message from the government is important, not how the broadcasters dress it up. The present system allows the broadcasters to analyze and interpret the government's emergency alert message, as long as that message is broadcast. Therefore, there is nothing preventing the broadcasters from delivering the glossy message that is discussed in their filings.

3. The present emergency alert system allows for messages for two minutes in duration from local governments. The regulations do not provide for an extended, unilateral takeover of a broadcast, preempting programming for an entire day or evening. Two minute messages are not unreasonable impositions on broadcasters, considering the importance of the public hearing the message.

4. It is of utmost importance for a local government to be able to reach a large group of people as quickly as possible in times of emergency. The present system, which allows interruption of all broadcast stations, is designed to accomplish this goal. Allowing broadcasters not to broadcast directions and information will result in a dilution of the government's ability to circulate public safety bulletins to the public.

FCC Local and State Government Advisory Committee**Advisory Recommendation Number 12****Notice of Proposed Rulemaking and Second Further Notice of Proposed Rulemaking****Docket No.: 91-301 and 91-171****Emergency Alert Systems****Re: Cases FO 91-171; FO 91-301-Emergency Alert Systems**

5. In effect, the change in the rule would preempt local government by allowing broadcasters to determine what message is important and how that message should be broadcast. The broadcasters do not have the background and training to manage emergency situations dealing with large groups of people in times of crisis. That is the function of the trained emergency officials in the government. The government, by our laws and throughout history, has been charged with maintaining the health and safety of the public during emergency situations. Allowing the proposed amendment may result in emergency situations intensifying in danger because of a broadcaster's failure to take appropriate steps to provide directions to the public. The emergency alert system serves a truly local function in that it enables immediate broadcast of local emergency situations, such as floods, chemical spills, auto accidents resulting in road closures and utility problems.

6. In many areas, the broadcast market includes a large metropolitan area which may comprise many smaller units of local government. Cable franchising authorities in these communities must be able to require in their franchises, the ability to override the cable system to deliver emergency messages to local residents. A fire, flood or chemical spill in a very small community whose population may only be a tiny percentage of the total broadcast market, might not receive adequate coverage from the broadcast networks concerning that local emergency. The individual franchising authority is in the best position to decide what emergency message to convey. Its ability to override its local cable system to convey that message allows for the quickest and most effective way to get that message to its citizens. Preempting a local franchising authority's ability to direct emergency messages in this fashion will have a detrimental effect on local government's ability to address public safety issues.

RECOMMENDATION:

Based upon the foregoing, the LSGAC respectfully recommends that the Federal Communications Commission should reject the proposed rulemaking with regard to the emergency alert system.

Adopted by the LSGAC on October 30, 1998.



Kenneth S. Fellman
Chairman, LSGAC